

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 14-151—sHB 5408**

*Energy and Technology Committee*

**AN ACT CONCERNING TREE TRIMMING**

**SUMMARY:** This act makes several changes in the process telephone, telecommunications, and electric distribution companies (“utilities”) must follow before conducting vegetation management (pruning or removing any trees or shrubs around their poles and wires). Among other things, it:

1. requires a utility to obtain written affirmative consent from a private property owner (including a municipality) before conducting vegetation management on a tree or shrub that is on the owner’s property and outside the public right-of-way (which typically includes the land up to, and including, the sidewalk);
2. expands the information a utility must include in its notice to a property owner about proposed vegetation management to include (a) instructions on how to object and (b) an option for a property owner to modify the utility’s proposal;
3. standardizes the deadlines to object to proposed vegetation management, regardless of how notice was delivered;
4. requires the pruning allowed as part of a utility’s vegetation management to (a) be done in a manner that retains the pruned vegetation’s structural integrity and health and (b) meet goals limited to the utility’s infrastructure reliability;
5. requires the Public Utilities Regulatory Authority (PURA) to study, and eventually allow, parties to mediate their vegetation management disputes;
6. requires each utility to operate an email account to receive objections, modification requests, questions, and complaints about the vegetation management process; and
7. requires the Department of Energy and Environmental Protection (DEEP) to review each electric company’s vegetation management practices and report to the Energy and Technology Committee.

Additionally, if a property owner objects to a utility’s proposed vegetation management and the case is appealed to PURA, the act requires the utility to prove that public convenience and necessity require the contested proposal.

EFFECTIVE DATE: Upon passage

**NOTICE REQUIREMENTS**

Subject to certain restrictions, the law generally allows utilities to conduct vegetation management anywhere in their “utility protection zone” (within eight feet of either side of their wires and anywhere vertically above or below them) on

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trees, shrubs, or other vegetation that pose a risk to their infrastructure's reliability. It also requires them to notify any abutting property owners.

The act extends the notice requirement to private property owners, which it defines as the owners of property, including municipalities, where the trees or shrubs subject to the proposed vegetation management are located. It allows the notice to be sent to abutting or private property owners by email or text message as alternatives to first class mail. It specifies that abutting property owners own the property abutting or adjacent to the portion of the public road, public highway, or public grounds where the trees or shrubs subject to the proposed vegetation management are located.

The act requires a utility's notice to property owners to inform them that they can, in writing, consent, object, or offer modifications to the proposed vegetation management. The notice must also state that an owner who objects will not be billed for any damage caused by trees falling on any utility infrastructure. If requested by a private property owner, the utility, municipality, or transportation commissioner, as appropriate, must inform the property owner if the proposed vegetation management is on his or her private property.

The notice must also include instructions on how the recipient can object. The act allows abutting property owners to object or request a modification by sending a written or emailed objection or modification request to the utility or tree warden at the address for each specified in the notice. If an abutting property owner sends a written objection, it must be deemed received on the date it is postmarked. By law, unchanged by the act, the notice must also indicate that a property owner (1) must file a written objection within 10 business days and (2) can request a consultation with the local tree warden or transportation commissioner, as appropriate.

### *Hazardous Trees*

Prior law did not require any notice for utilities to perform vegetation management on trees that endanger their infrastructure because they are dead, decayed, or structurally weak ("hazardous trees"). When such a tree is outside of the public right-of-way, the act requires a utility to make a reasonable effort to notify the affected property owner at least three days in advance.

### DEADLINES TO OBJECT

Prior law required a utility conducting vegetation management to notify abutting property owners at least 15 business days before the scheduled vegetation management and give them at least 10 business days to object before proceeding. The notice could be (1) delivered by first class mail, (2) deposited at the property, or (3) delivered orally and in writing. Under the last option, the utility could proceed any time after giving the notice, as long as the owner had (1) not filed a written objection within 10 business days of receiving the notice or (2) waived the right to object in writing.

The act allows the notice to be delivered the same ways, but instead requires all notices to be delivered at least 15 business days before the scheduled

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vegetation management, regardless of how the notice is delivered. For vegetation management outside the public right-of-way, the utility cannot proceed until it receives a notified private property owner's written affirmative consent. (In such instances, the property owner can withhold consent and will not have to object in order to stop the vegetation management.) By law, the utility can otherwise proceed with vegetation management on a public road, highway, or grounds if it does not receive an objection from an abutting property owner within 10 business days after delivering the required notice.

### *Permits*

The act specifies that before proceeding, the utility must obtain a permit, as already required by law, from the local tree warden, transportation commissioner, or other authority with jurisdiction over cutting or removing trees or shrubs on public road or grounds. If the permit is denied and the utility appeals to PURA (as allowed by law), the act requires the utility to prove that public convenience and necessity require its proposed vegetation management.

## OBJECTIONS, MEDIATION, AND APPEALS

By law, if an abutting property owner objects to a utility's proposed vegetation management, the objection is decided by the local tree warden or transportation commissioner, as appropriate. Either party can then appeal to PURA. The act requires the utility in such appeals to prove that its proposed vegetation management is required for public convenience and necessity. It also (1) extends the entire appeals process to instances when the utility does not accept a private property owner's proposed modifications, as allowed under the act's notice requirement, and (2) requires PURA's hearing on the appeal to be held within 60 calendar days, instead of 60 business days.

### *Mediation*

The act requires PURA to study, as part of a proceeding already required by law, (1) using mediation to resolve objections to proposed vegetation management and (2) the circumstances under which stump grinding can be performed within the utility protection zone. Utilities must be able to recover all reasonable incremental costs incurred from any resulting PURA directives through the non-bypassable federally mandated congestion charge (the FMCC charge on electric bills).

Once PURA issues its final decision on this study, the act requires the parties in an appeal to have a mediation session with a PURA-designated mediator before PURA hears the appeal, unless the abutting property owner chooses to opt-out of the mediation. The mediator must (1) notify the parties and the deciding tree warden or transportation commissioner, as applicable, and (2) hold the mediation within 30 calendar days after one of the parties appeals to PURA.

If the mediation fails to resolve the appeal, PURA must hold a hearing within 30 calendar days after the mediation concluded. If the abutting property owner elects not to undergo mediation, PURA must hold a hearing within 60 calendar

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days after receiving the appeal. The parties and the entity that issued the original decision must be notified of the hearing, at which the utility must prove that public convenience and necessity require the proposed vegetation management. PURA can authorize the pruning, removal, or stump grinding of any tree or shrub if it finds that public convenience and necessity require it.

### *DEEP Vegetation Management Review*

Within one year after PURA issues its final decision on utility company tree trimming practices, including the above mediation study, the act requires DEEP to review each electric company's vegetation management practices and issue a report on them to the Energy Committee. Thereafter, DEEP must review these practices and issue a report to the Energy Committee every two years.

OLR Tracking: LRH:KD:JKL:am